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In the UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: Hans-Martin Dietrich

Application No. 10/501,750   Attorney Docket No. 2002P00211WOUS

Filed: July 15, 2004

Title: IMPROVED DATA PROTECTION FOR POSITION DEPENDENT SERVICES

Examiner: Nghi H. Ly   Art Unit: 2617

⇒ **FACSIMILE ATTN TO: NGHI H. LY**   **FAX NO.: 571-273-8300**

APPELLANT'S BRIEF

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	Application Number	10/501,750
	Filing Date	JULY 15, 2004
	First Named Inventor	HANS-MARTIN DIETRICH
	Examiner Name	NGHI H. LY
TOTAL AMOUNT OF PAYMENT ($) 500	Art Unit	2617
	Attorney Docket No.	2002P00211WOUS

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	Small Entity Fee($)	SEARCH FEES Fee($)	Small Entity Fee($)	EXAMINATION FEES Fee($)	Small Entity Fee($)	Fees Paid ($)
Utility	300	150	500	250	200	100	____
Design	200	100	100	50	130	65	____
Plant	200	100	300	150	160	80	____
Reissue	300	150	500	250	600	300	____
Provisional	200	100	0	0	0	0	____

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 30 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee($)		Fee Paid ($)	Multiple Dependent Claims Fee ($)	Fee Paid ($)
____ -20 or HP=	____	x ____	=	____	____	____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee($)		Fee Paid ($)
____ - 3 or HP=	____	x ____	=	____

HP = highest number of independent claims paid for, if greater than 3.

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If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

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	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	____
Other (e.g., late filing surcharge) : **Filing a brief in support of an appeal 1402/2402**	**500**

SUBMITTED BY

Signature	*[signature]*	Registration No. (Attorney/Agent)	44,961	Telephone	407-736-6449
Name (Print/Type)	JOHN P. MUSONE			Date	NOVEMBER 22, 2006

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TRANSMITTAL FORM	Application Number	10/501,750
	Filing Date	July 15, 2004
	First Named Inventor	Hans-Martin Dietrich
	Art Unit	2617
(to be used for all correspondence after initial filing)	Examiner Name	Nghi H. Ly
Total Number of Pages in This Submission	Attorney Docket Number	2002P00211WOUS

ENCLOSURES (check all that apply)

☒ Fee Transmittal Form
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Remarks
Appellants Appeal Brief (13 pgs) is being filed.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm	SIEMENS
Signature	*(signature)*
Printed Name	JOHN. P. MUSONE
Date	NOVEMBER 22, 2006	Reg. No.	44,961

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PATENT
Attorney Docket No. 2002P00211WOUS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Inventor:	Hans M. Dietrich, et al.	)
		)
Serial No.:	10/501,750	)
		)
Filed:	07/15/2004	)

Group Art Unit: 2617

Examiner: Ly, Nghi H.

Title: IMPROVED DATA PROTECTION FOR POSITION DEPENDENT
SERVICES

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APPELLANT'S BRIEF UNDER 37 CFR 41.10

This brief is in furtherance of the Notice of Appeal filed in this application
on September 25, 2006.

1.   REAL PARTY IN INTEREST - 37 CFR 41.37(c) (1) (I)

The real party in interest in the present Appeal is the assignee of record of
the present application, Siemens Aktiengesellschaft.

2.   RELATED APPEALS AND INTERFERENCES - 37 CFR 41.37(c) (1) (ii)

There is no other appeal, interference or judicial proceeding that is related to or that will directly affect, or that will be directly affected by, or that will have a bearing on the Board's decision in this Appeal.

3.   STATUS OF CLAIMS - 37 CFR 41.37(c) (1) (iii)

Claims cancelled: 1-17 and 33.

Claims withdrawn but not cancelled: none.

Claims pending: 18-32 and 34.

Claims allowed: none.

Claims rejected: 18-32 and 34.

Claim rejections appealed: 18-32 and 34.

4.   STATUS OF AMENDMENTS - 37 CFR 41.37(c) (1) (iv)

There is no unentered amendment subsequent to final rejection.

5.   SUMMARY OF CLAIMED SUBJECT MATTER- 37 CFR 41.37(c) (1) (v)

Claim 18

Independent claim 18 is directed to a method for requesting the agreement of a user of a mobile terminal 13 (FIG. 3) in a mobile radio network to the transfer of their position data to a party, e.g., Locator Services Application (LCS) 11, requesting this position data. For example, see paragraphs 36-37 of publication document of the present application. The method allows providing a central privacy entity 26 comprising a database server for storing privacy data 18 regarding the mobile terminal. In particular, the central privacy entity constitutes a separate entity from a Home Location Register (HLR) 16 for the mobile terminal. The privacy data 18 stored in the database server at the central privacy entity is defined to assign to the mobile terminal at least one verification rule as to whether an agreement must be obtained on the mobile terminal side to forward

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the mobile terminal position to the requester. See paragraphs 38-39 of publication document of the present application. The switching center 14 of the mobile radio network (in the event of the arrival of a request from a requester for the position of the mobile terminal) causes the database server at the central privacy entity 26 to make a check on the basis of the privacy data stored there.

The results of the check performed at the central privacy location 26 are sent to the switching center 14. If the result indicates that an agreement must be obtained, the switching center 14 sends a request for an agreement to the mobile terminal. If the agreement is received by the switching center, then the position of the mobile terminal is sent by the switching center to the requester. See paragraph 40 of publication document of the present application. See also paragraphs 22-24.

Claim 28

Dependent claim 28 further defines claim 18 by reciting that the database server 26 is arranged in an SCP (Service Control Point). See paragraph 42 of publication document of the present application.

Claim 34

Independent claim 34 is directed to computer readable media containing program instructions for requesting the agreement of a user of a mobile terminal 13 (FIG. 3) of a mobile radio network to the transfer of their position data to a party, e.g., Locator Services Application (LCS) 11, requesting this position data. For example, see paragraphs 36-37 of publication document of the present application. The computer readable media comprises computer readable code for storing privacy data 18 regarding the mobile terminal in a database server at a central privacy location 26. The central privacy location constitutes a separate location from a Home Location Register (HLR) 16 for the mobile terminal. For example, see paragraphs 38-39 of publication document of the present application. The computer readable media further comprises computer readable code for defining the privacy data stored in the database server at the central

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privacy location to assign to the mobile terminal at least one verification rule as to whether an agreement must be obtained on the mobile terminal side to forward the mobile terminal position to the requester. Computer readable code causes the switching center, in the event of the arrival of a request from a requester for the position of the mobile terminal, to access the database server at the central privacy location to perform a check on the basis of the privacy data stored there.

Computer readable code is provided for sending the result of the check performed at the central privacy location to the switching center. Computer readable code is provided for sending, by the switching center, if the result at least indicates that an agreement must be obtained, a request for an agreement to the mobile terminal, and computer readable code is provided for transmitting, if the agreement is received by the switching center, the position of the mobile terminal to the requester. For example, see paragraphs 38-39 of publication document of the present application. See also paragraphs 22-24.

6.   GROUNDS OF REJECTION TO BE REVIEWED UPON APPEAL -
      37 CFR 41.37(c) (1) (vi)

      A)   Whether claims 18-27, 29-32 and 34 stand rejected under 35
U.S.C. 103(a) as being unpatentable over US pat. No. 6,311,069 (hereinafter Havinis) in view of US Publication No. 2001/0014604A1 (hereinafter Kingdon).

      B)   Whether claim 28 stands rejected under 35 U.S.C. 103(a) as being
unpatentable over Havinis in view of Kingdon and further in view of US pat. No. 6,961,417 (hereinafter Koch).

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7.   ARGUMENT-37 CFR 41.37(c) (1) (vii)

A.   _Regarding the rejection of claims 18-27, 29-32 and 34 under 35_
U.S.C. 103(a) as being unpatentable over Havinis in view of Kingdon.

Appellant argues that the Havinis/Kingdon combination does not constitute
an appropriate _prima facie_ combination for renderings claims 18-27, 29-32 and
34 unpatentable because such combination, even if combined as suggested by
the Examiner, fails to teach or suggest each of the claimed elements and/or
operational relationships. With regard to the rejections applied against claims
18-27, 29-32 and 34, it is appellant's belief that not all of the rejected claims
stand or fall together. More specifically, method claims 18-27, and 29-32 stand
together. However, claim 34, directed to computer readable media, should be
grouped separately from claims 18-27 and 29-32, for purposes of this appeal.

A.1   _Arguments Regarding Claim 18_

Applicant respectfully submits that the Havinis/Kingdon combination fails
to describe or suggest the method set forth in claim 18. The method set forth in
claim 18 allows requesting the agreement from a user of a mobile terminal of a
mobile radio network regarding the transfer of the user position data to a party
requesting this information.

The Examiner correctly acknowledges that Havinis fails to disclose or
suggest that the central privacy entity constitutes a separate entity from a Home
Location Register (HLR) for the mobile terminal. The Examiner then applies
Kingdon to purportedly remedy the deficiencies of Havinis regarding the claimed
invention. However, as discussed in greater detail below, the combination of
Kingdon with Havinis fails to teach or suggest the claimed invention.

Kingdon is directed to provisioning assistance GPS data _to_ a mobile
station. See abstract of Kingdon. See also paragraph 14 of publication document
of Kingdon. The presently claimed invention is directed to safeguarding privacy
data _from_ the mobile station when the mobile station is requested to report its

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location. As best understood by applicant, there is no discussion in Kingdon of
any kind regarding privacy issues that can arise when the reporting of location is
from the mobile station, as set forth in the claimed invention. Although Kingdon
may use various databases, (e.g., VLR 16, HLR 26 as shown in FIG. 1 of
Kingdon), the utilization of such databases has nothing to do with the claimed
operational relationships of storing privacy data at the central privacy location to
assign to the mobile terminal at least one verification rule as to whether an
agreement must be obtained on the mobile terminal side to forward the mobile
terminal position to the requester. It is respectfully submitted that it is error for the
Examiner to suggest that database VLR 16 of Kingdon somehow teaches the
foregoing relationships merely because such database "contains various
subscriber information". The prior art reference must describe and enable the
claimed invention with sufficient clarity and detail to establish that the subject
matter already existed in the prior art and that its existence was recognized by
persons of ordinary skill in the field of the invention. See Elan Pharmans. Inc v.
Mayo Found. For Med. Educ. & Research, 304 F3d 1221, 64 USPQ2d 1292,
1296 (Fed. Cir. 2002, *opinion vacated on other grounds*, 341 F3d 1051, 68
USPQ2d 1373 (Fed. Cir. 2003) (*en banc*); See also Crown Operations Int'l, Ltd.
v. Solutia Inc., 289 F3d 1367, 1375, 62 USPQ2d 1917, 1921 (Fed. Cir. 2002).

In view of the foregoing remarks, it is respectfully submitted that neither
Havinis nor Kingdon, singly or in combination, teach or suggest the structural
and/or operational relationships set forth in claim 18. Accordingly, the
Havinis/Kingdon combination fails to render claim 18 unpatentable under the
§103 statutory requirements and this rejection should be withdrawn. Since claims
18-27, and 29-32 include the structural and/or operational relationships
respectively recited in claim 18, it is also respectfully submitted that the
Havinis/Kingdon combination also fails to render unpatentable claims 18-27 and
29-32. Accordingly, the rejection of claims depending from claim 18, should also
be withdrawn.

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A.2 _Arguments Regarding Claim 34_

Independent claim 34 is directed to computer readable media containing program instructions for requesting the agreement from a user of a mobile terminal of a mobile radio network to the transfer of their position data to a party requesting this position data.

The Examiner correctly acknowledges that Havinis fails to disclose or suggest that the central privacy entity constitutes a separate entity from a Home Location Register (HLR) for the mobile terminal. The Examiner then applies Kingdon to purportedly remedy the deficiencies of Havinis regarding the claimed invention. However, as discussed in greater detail below, the combination of Kingdon with Havinis fails to result in the claimed invention.

Kingdon is directed to provisioning assistance GPS data <u>to</u> a mobile station. See abstract of Kingdon. See also paragraph 14 of publication document of Kingdon. The claimed invention is directed to safeguarding privacy data <u>from</u> the mobile station when the mobile station is requested to report its location. There is no discussion in Kingdon regarding privacy issues that can arise when the reporting of location is from the mobile station, as does the claimed invention. Although Kingdon may use various databases, (e.g., VLR 16, HLR 26 as shown in FIG. 1 of Kingdon), the utilization of such databases has nothing to do with the claimed structural and/or operational relationships set forth in computer readable code for defining the privacy data stored in the database server at the central privacy location to assign to the mobile terminal at least one verification rule as to whether an agreement must be obtained on the mobile terminal side to forward the mobile terminal position to the requester. It is respectfully submitted that it is error for the Examiner to suggest that database VLR 16 of Kingdon somehow teaches the foregoing relationships merely because such database "contains various subscriber information". (Citations omitted) Accordingly, the Havinis/Kingdon combination does not constitute an appropriate _prima facie_ combination for rendering claim 34 unpatentable. Accordingly, the rejection of claim 34 should be withdrawn.

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B.   _Regarding the rejection of claim 28 as being unpatentable under 35_
U.S.C. 103(a) over Havinis in view of Kingdon and further in view of Koch.

Appellant argues that the Havinis/Kingdon/Koch combination does not
constitute an appropriate _prima facie_ combination for renderings claim 28
unpatentable because such a combination, even if combined as suggested by
the Examiner, fails to teach or suggest each of the claimed elements and/or
operational relationships.

More specifically, it is respectfully submitted that Koch fails to overcome
the deficiencies of Havinis/Kingdon noted above in connection with claim 18, the
parent claim of claim 28. Consequently, the Havinis/Kingdon/Koch combination
fails to render unpatentable claim 28. Accordingly, the rejection of claim 28
should be withdrawn.

(please proceed to the next page)

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8.   CLAIMS APPENDIX - 37 CFR 41.37(c) (1) (viii).

A copy of the claims 18-32 and 34involved in this appeal is attached as a

claims appendix under 37 CFR 41.37(c) (1) (viii).

9.   EVIDENCE APPENDIX - 37 CFR 41.37(c) (1) (ix)

None is required under 37 CFR 41.37(c) (1) (ix)

10.   RELATED PROCEEDINGS APPENDIX - 37 CFR 41.37(c) (1) (x)

None is required under 37 CFR 41.37(c) (1) (x)

Respectfully submitted,

Dated: _____ 11/22/06 _____   By: _____

                                    John P. Musone, Esquire
                                    Registration No. 44,961
                                    Telephone: (407) 736-6449

Siemens Corporation
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CLAIMS APPENDIX
37 CFR 41.37(c)(1)(viii)

18.   A method for requesting the agreement of a user of a mobile terminal of a mobile radio network to the transfer of their position data to a party requesting this position data, the method comprising:

providing a central privacy location comprising a database server for storing privacy data regarding the mobile terminal, wherein said central privacy location constitutes a separate location from a Home Location Register for the mobile terminal;

defining the privacy data stored in the database server at the central privacy location to assign to the mobile terminal at least one verification rule as to whether an agreement must be obtained on the mobile terminal side to forward the mobile terminal position to the requester;

causing, by the switching center of the mobile radio network, in the case of the arrival of a request from a requester for the position of the mobile terminal in the switching center, the database server at the central privacy location to make a check on the basis of the privacy data stored there;

sending the result of the check performed at the central privacy location to the switching center;

sending, by the switching center, if the result at least indicates that an agreement must be obtained, a request for an agreement to the mobile terminal; and

transmitting, if the agreement is received by the switching center, the position of the mobile terminal to the requester.

19. The method according to Claim 18, wherein the request arrives at a position data acceptance location of the mobile radio network.

20. The method according to Claim 18, wherein the switching center is an MSC (Mobile Switching Center) or SGSN (Serving GPRS (General Pocket Radio Service) Support Node).

21. The method according to Claim 18, further comprising:
requesting, by the switching center, the position of the mobile terminal from a BSS (Base Station System) or RAN (Regional Area Network) of the mobile radio network.

22. The method according to Claim 18, wherein
a verification rules specification can only comprise a prespecified set of different instructions, especially one of the following instructions: position data transfer without notification, position data transfer with notification to the mobile terminal, position data transfer only after agreement of the mobile station or if no response is received from the mobile station, only transfer position data with the agreement of the mobile station.

23. The method according to Claim 18, further comprising:
storing, for a multiplicity of mobile subscriber identity modules and/or mobile stations, verification rules specifications and identity specifications for the mobile terminal or for a mobile subscriber identity module contained in it.

24. The method according to Claim 18, further comprising:
regularly receiving, by a switching center, especially a Visitor Location Register of a switching center from the Home Location Register of a mobile network the telecommunications address of the database server or receiving it when a mobile terminal registers at the switching center or its Visitor Location Register VLR.

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25.   The method according to Claim 18, wherein position data is only transferred to a requester if this is allowed for the period of the recording of the position according to stored conditions for the user of the mobile station or its mobile subscriber identity module through attributes stored in the database.

26.   The method according to Claim 18, further comprising:
changing the conditions by the user via their mobile terminal or another terminal by mobile radio, WAP (Wireless Application Protocol), Internet, fixed network or in another way.

27.   The method according to Claim 18, wherein the switching center is the mobile switching center currently being used by the mobile terminal .

28.   The method according to Claim 18, wherein the database server is arranged in an SCP (Service Control Point).

29.   The method according to Claim 18, wherein the database server is a database comprising the verification rules specifications and possibly additional attributes and comprising an additional unit which makes the check.

30.   The method according to Claim 18, further comprising:
storing the entries in the database server but, to make upwards compatibility with a Home Location Register, which does not support the improvement of the LCS (Locator Services) Privacy in accordance with the invention, transmitting entries to a mobile network Home Location Register on request or at regular intervals, so that the mobile network Home Location Register can transmit the entries to a switching center.

31.   The method according to claim 30, further comprising
performing a proportion of the checks in accordance with a classification in the switching center; and
transmitting the result as an additional input parameter to the database server.

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32.   The method according to claim 31, further comprising

storing the entries in a Home Location Register;

storing only additional attributes in the database server; and

storing the address of the database server in the Home Location Register.

34.   A computer readable media containing program instructions for requesting

the agreement of a user of a mobile terminal of a mobile radio network to the

transfer of their position data to a party requesting this position data, the

computer readable media comprising:

computer readable code for storing privacy data regarding the mobile

terminal in a database server at a central privacy location, wherein said central

privacy location constitutes a separate location from a Home Location Register

for the mobile terminal;

computer readable code for defining the privacy data stored in the

database server at the central privacy location to assign to the mobile terminal at

least one verification rule as to whether an agreement must be obtained on the

mobile terminal side to forward the mobile terminal position to the requester;

computer readable code causing the switching center, in the event of the

arrival of a request from a requester for the position of the mobile terminal, to

access the database server at the central privacy location to perform a check on

the basis of the privacy data stored there;

computer readable code for sending the result of the check performed at

the central privacy location to the switching center;

computer readable code for sending, by the switching center, if the result

at least indicates that an agreement must be obtained, a request for an

agreement to the mobile terminal; and

computer readable code for transmitting, if the agreement is received by

the switching center, the position of the mobile terminal to the requester.

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